

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) NO. 20153 OF 2022

Kamal Kishor Sharma

....

Petitioner

Mr. Sk. Zafarulla, Advocate

-versus-

State of Odisha and others

....

Opp. Parties

Mr. Swayambhu Mishra,
Additional Standing Counsel

CORAM:

JUSTICE K.R.MOHAPATRA

ORDER

16.08.2022

Order No.

1. This matter is taken up through hybrid mode.
2. The Petitioner in this writ petition seeks to assail the notice/order of eviction dated 18th July, 2022 (Annexure-2) issued by the Tahasildar, Kantabanji-Opposite Party No.4 in Encroachment Case No. 2 of 2007.
3. In course of hearing, Mr. Zafarulla, learned counsel submits that interest of justice will be best served if the Petitioner is given liberty to file appeal against the notice/order of eviction as at Annexure-2. Further, he prays for a direction to protect his possession over the land in question till disposal of such appeal.
4. Mr. Mishra, learned Additional Standing Counsel submits that the Petitioner has remedy of appeal under the provisions of Orissa Prevention of Land Encroachment Act, 1972 (for short, 'OPLE Act'). He further submits that the Petitioner has not filed the order of eviction impugned herein. He has only annexed 'Kha' Form, which is a consequential

notice pursuant to the order of eviction. As such, the writ petition is not maintainable.

5. Taking into consideration the submissions of learned counsel for the parties, this Court without expressing any opinion on the merit of the case of Petitioner disposes of this writ petition with an observation that in the event the Petitioner files an appeal under Section 12(1) of the OPLE Act within a period of two weeks hence, the same shall be considered in accordance with law giving opportunity of hearing to the parties concerned. In order to enable the Petitioner to move the appellate authority for condonation of delay in filing the appeal, if any and for interim protection, the notice/order of eviction issued under Annexure-2 passed in Encroachment Case No.2 of 2007 shall be kept in abeyance for a period of three weeks, if the same has not yet been given effect to.

6. Learned counsel for the Petitioner undertakes to serve a copy of the writ petition along with certified copy of this order on learned State Counsel for communication.

Urgent certified copy of this order be granted on proper application.

(K.R. Mohapatra)
Judge